

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

January 6, 2009

No. 08-40274
Summary Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA,

Plaintiff–Appellee,

v.

VICTOR HUGO LUCERO-SIMENTAL, also known as, Mario Reyes-Simental,
also known as, Rudolfo Simental,

Defendant–Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:07-CR-593-1

Before KING, DENNIS, and OWEN, Circuit Judges.

PER CURIAM:*

Victor Hugo Lucero-Simental appeals from his conviction of illegal reentry following deportation. Lucero-Simental contends solely that his ninety-six-month sentence was unreasonable.

Lucero-Simental did not object to his sentence or raise the same arguments in the district court that he advanced in favor of the sentence he requested. His contentions arguably should be reviewed for plain error. See

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

United States v. Willingham, 497 F.3d 541, 544 (5th Cir. 2007) (stating that arguments not presented to the district court are reviewed for plain error). But see United States v. Gomez-Herrera, 523 F.3d 554, 564 (5th Cir. 2008) (declining to decide the standard of review when the defendant failed to object to the procedural reasonableness of his sentence), cert. denied, 77 U.S.L.W. 3324 (U.S. Dec. 1, 2008) (No. 08-5226).

The sentence of ninety-six months was within Lucero-Simental's guideline sentencing range and therefore is entitled to a presumption of reasonableness. See United States v. Campos-Maldonado, 531 F.3d 337, 338 (5th Cir. 2008) (per curiam), cert. denied, 129 S. Ct. 328 (2008). The district court provided sufficient reasons for the sentence, addressing factors listed in 18 U.S.C. § 3553(a), see Rita v. United States, 127 S. Ct. 2456, 2468 (2007); accordingly, Lucero-Simental has failed to demonstrate error, plain or otherwise.

AFFIRMED.